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District of Nevada

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Attorneys for the United States.

DISTRICT OF NEVADA

Defendants.

**NOTICE OF ADDITIONAL INTERESTED
PARTY AND MOTION TO ADD PARTY
UNDER RULE 71.1(c)(3)
[AMY E. SEARS]**

1 Plaintiff, the United States of America, hereby moves this Court for an Order directing
2 the Clerk of the Court to add as an interested party to this action, Amy E. Sears.

3
4 Rule 71.1(c)(3) of the Federal Rules of Civil Procedure provides:

5 **Parties.** When the action commences, the plaintiff need join as defendants only
6 those persons who have or claim an interest in the property and whose names are
7 then known. But before any hearing on compensation, the plaintiff must add as
8 defendants all those persons who have or claim an interest and whose names have
9 become known or can be found

10 A condemnation is an action *in rem*, and parties who may have an interest in the property
11 need to be named in the action and served. To that end, Rule 71.1(f) provides that “[w]ithout
12 leave of court, the plaintiff may – as often as it wants – amend the complaint at any time before
13 the trial on just compensation.” In accordance with Rule 71.1(c)(3) and (f), the United States
14 hereby requests that the Court enter an Order directing the Clerk to add Amy E. Sears. Upon
15 filing of the Order, the United States will serve notice to Amy E. Sears pursuant to Rule
16 71.1(d)(3).

17 The following information regarding the nature of Ms. Sears’ interest in the property is
18 provided in an effort to assist the parties and the Court in apportioning just compensation: Amy
19 E. Sears’ interest encompasses an unknown share of the 1/12 interest in certain claims belonging
20 to the heirs of Thomas (Tom) O. Sears.¹ Also sharing in this 1/12 interest are Patricia Fern Sears,
21 as the surviving spouse of Thomas O. Sears, and any Other Heirs of Thomas O. Sears (a.k.a.
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25 ¹ The heirs of Thomas O. Sears owned a 1/12 interest in fee in patented claims White Lake &
26 Conception and White Lake No. 2 and Conception No. 2, and a 1/12 interest in unpatented
27 claims Maria, Willow, East Side No. 1, East Side No. 2, and June. Heirs of Mr. Sears’ brother,
28 Jerome F. Sears, Jr., owned a separate 1/12 interest in these same claims. *See* ECF No. 1-7 at 4-5
& 15-17. Thomas O. Sears acquired his interest in the property in 1966. *See* Book D-1 of Mining
Deeds, pp. 337, 344 & 345; Book 7 of Official Records, p. 377, Lincoln County, Nevada.

1 Tom O. Sears) (both Patricia Fern Sears and Other Heirs of Thomas O. Sears are already named
2 as interested parties). *See* ECF No. 1-7 (Interested Parties). Amy E. Sears informed undersigned
3 counsel that she is the only child of Patricia Fern Sears and Thomas O. Sears, and that both
4 Patricia F. Sears and Thomas O. Sears died intestate. At this time, Amy E. Sears is the only
5 known claimant to the interests of Patricia Fern Sears and of the Other Heirs of Thomas O. Sears
6 in this litigation. However, investigation of these interests is still ongoing, and the United States
7 will file updates if other potential heirs can be identified or ruled out, as appropriate.
8

9 In light of this information, and in accordance with Rule 71.1(c)(3) and (f), the United
10 States hereby requests that the Court enter an Order directing the Clerk to add Amy E. Sears as
11 an interested party to this action, as follows:
12

13 Amy E. Sears
14 P.O. Box 71
15 Pioche, NV 89043

16 Upon filing of the Order, the United States will serve notice to Amy E. Sears pursuant to Rule
17 71.1(d)(3).

18 Respectfully submitted this 18th day of July, 2018.

19 UNITED STATES OF AMERICA

20 STEVEN W. MYHRE
21 Acting United States Attorney
22 District of Nevada
23 TROY K. FLAKE
24 Assistant United States Attorney

25 /s/ Anthony C. Gentner
26 GEORGIA GARTHWAITE
27 JOHANNA M. FRANZEN
28 ANTHONY GENTNER
MARK C. ELMER
Trial Attorneys
U.S. Department of Justice

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on July 18, 2018, I served the foregoing NOTICE OF
3 ADDITIONAL INTERESTED PARTY AND MOTION TO ADD PARTY UNDER RULE
4 71.1(c)(3) on all parties who have appeared in this action using the Court's case
5 management/electronic case filing system. I hereby certify that on July 18, 2018, the United
6 States sent a copy of the foregoing NOTICE OF ADDITIONAL INTERESTED PARTY AND
7 MOTION TO ADD PARTY UNDER RULE 71.1(c)(3) via U.S. mail to the following
8 defendants:
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10 Sandra Sears-Lavallee
11 1172 Skyline Road
Henderson, NV 89002

Debbie DeVito
c/o Stanley Pedder
3445 Golden Gate Way
Lafayette, CA 94549

12 John B. Sheahan
13 address unknown

Melanie Goodpasture
P.O. Box 7044
Cotati, CA 94931

14 Deborah Lynn Sheahan
15 4662 Gabriel Drive
Las Vegas, NV 89121

House Rabbit Society
c/o Anne Martin (Registered Agent)
148 Broadway
Richmond, CA 94804

16 Diane Sibley-Origlia
17 1615 Via Romero
Alamo, CA 94507

Animal Place
c/o Kim Sturla (Registered Agent)
17314 McCourtney Road
Grass Valley, CA 95949

19 Katherine Kell
20 c/o Stanley Pedder
3445 Golden Gate Way
21 Lafayette, CA 94549

Hui Chu Poole
165 Lakewood Road
Walnut Creek, CA 94598

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23
24
25 DATED: July 18, 2018

26 /s/ Anthony C. Gentner
27 ANTHONY C. GENTNER
28

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**
3

4 UNITED STATES OF AMERICA,

5 Plaintiff,
6

7 v.

8 400 ACRES OF LAND, more or less,
9 situate in Lincoln County, State of Nevada;
10 and JESSIE J. COX, et al.,

11 Defendants.
12

Case No. 2:15-cv-01743-MMD-NJK

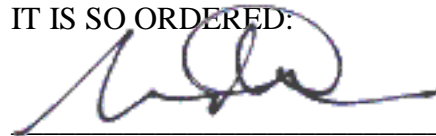
PROPOSED ORDER

13 In accordance with Rules 71.1(c)(3) and (f), the below-listed party is hereby joined as
14 interested parties in this action. The United States shall serve notice to the new party pursuant to
15 Rule 71.1(d)(3).

16 See table below:
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Interested Party	Interest(s) in Property	Reference (if known)
Amy E. Sears	<p>As to patented claims White Lake & Conception and White Lake No. 2 & Conception No. 2:</p> <p><u>an unknown share in 1/12 interest in fee as an heir of Thomas O. Sears a.k.a Tom O. Sears</u></p> <p>As to unpatented claims Maria, Willow, East Side No. 1, East Side No. 2, and June:</p> <p><u>an unknown share in 1/12 interest as an heir of Thomas O. Sears a.k.a. Tom O. Sears</u></p>	<p>Book D1 of Mining Deeds, pages 337, 344, and 345;</p> <p>Book 7 of Official Records, page 377.</p>

IT IS SO ORDERED:



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE

DATED: July 18, 2018